

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of AAA, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

WILLIAM ANTHONY ANDERSON,

Respondent-Appellant.

UNPUBLISHED

May 22, 2003

No. 244618

Ingham Circuit Court

Family Division

LC No. 00-047759-NA

Before: Whitbeck, C.J., and White and Donofrio, JJ.

PER CURIAM.

Respondent William Anthony appeals as of right from the trial court order terminating his parental rights to the minor child AAA under MCL 712A.19b(3)(g), (h), and (j). We affirm. We decide this case without oral argument pursuant to MCR 7.214(E).

I. Basic Facts And Procedural History

On June 20, 2002, a bench trial was held based on a supplemental petition filed to terminate Anderson's parental rights to AAA. FIA worker Danielle Burk testified that she had been AAA's worker since February 2001 when he came into foster care. At the time AAA was brought into care, he was living with Anderson. When the original petition was filed, there was no custody order granting Anderson custody, and AAA was removed. In July 2001, Burk attempted to make a home visit. Anderson's neighbor apparently informed Burk in some fashion that Anderson was arrested for pandering charges. Anderson never notified Burk of his incarceration as required by his parent-agency agreement.

Further, according to Burk, Anderson never maintained a regular source of income as required by the agreement. Anderson said that he had a lawn care business, but he never provided any evidence to verify that fact. As part of his agreement, Anderson was required to be drug tested three times per week. He did not comply consistently, and he tested positive for marijuana during the time his son was in foster care. After Anderson's release from jail, he was required to complete a psychological evaluation. Although Anderson's visits with AAA went well, he did not attend all the visits and was late several times.

FIA worker Jennifer Powell testified that she was AAA's current foster care worker. She testified that she tried to refer Anderson for counseling, but that he did not want the names of the counselors. Anderson told Powell that he could not go to the counselor to whom she referred him because it would take too long to get in. Powell testified that Anderson told her that he wanted a paternity test because he was not sure if he was AAA's father. He stated that if he was not AAA's father, he did not want contact with the child. Powell testified that Anderson did not show up for at least five scheduled visits with his son. At one point, Anderson told Powell that he worked at Spartan Toyota. However, she called the business and they denied that Anderson ever worked there.

According to Powell, Anderson told her that he took parenting classes in jail but never provided any verification; she referred him to Cristo Rey for parenting classes. Powell testified that she recommended termination of Anderson's parental rights because he was currently serving three years in prison. She testified that the psychological evaluation was not favorable for Anderson's ability to parent. Anderson still had criminal charges pending including criminal sexual conduct and accepting the earnings of a prostitute. Powell testified that AAA's mother, Mary Reedy, was sixteen at the time he was born and worked as a prostitute for Anderson at the time. Powell stated that AAA tested positive for marijuana when he was born. Powell testified that Anderson pleaded guilty to delivery of a controlled substance in 1996. In 1999, according to Powell, he pleaded guilty to receiving and concealing stolen goods and domestic violence. However, Powell testified that she recommended termination of parental rights not only because Anderson was incarcerated, but also because he lacked parenting abilities.

Anderson's stepmother, Jeanette Bush, testified that he and AAA lived with her in 2000 for three to four months. Bush helped take care of AAA and Anderson gave her money for diapers, clothing and food. During that time, according to Bush, she never saw Anderson use drugs. Bush testified that Anderson worked during that time but she did not know where. He was absent at times and told Bush he had a lawn service business.

Psychologist Joan Jackson Johnson testified that she evaluated Anderson from May of 2001 to September of 2001. She testified that the evaluation process took a long time because Anderson missed several appointments and left early during some appointments. According to Johnson, Anderson had an inability to follow through which was evident through his arrests, criminal history, and difficulties in school. Anderson had numerous conflicts and blamed others for his problems. Johnson testified that Anderson was in denial about what led to his son's removal. Johnson recommended parenting classes for Anderson because he lacked understanding of basic child development.

According to Johnson, Anderson spoke on his cell phone during his appointments with her. Johnson testified that Anderson lacked maturity and insight, which prohibited meaningful therapy. In Johnson's opinion, Anderson had a severe mental disorder consistent with a delusional paranoid disorder, which would require treatment for a number of years. However, in order for Anderson to benefit from therapy, he must first realize his need for help in parenting. According to Johnson, Anderson had another child with whom he had no contact. Johnson testified that, based on the amount of time it would take for Anderson to benefit from treatment, his parental rights should be terminated because a child as young as AAA cannot wait.

Anderson's sister, Shairese Bush, testified that she helped baby-sit for AAA when he was living with Anderson. She testified that Anderson took care of AAA and was appropriate with him. She never saw Anderson use drugs. According to Bush, Anderson did have lawn service equipment, but she never saw a trailer to transport such equipment.

Anderson testified, stating that he was twenty-five and, at one point, held a job at Famous Taco for 4½ years. According to Anderson, he worked at Capital City Auto Body in 1999 before he went to jail for ninety days. After his release he was employed for nine months. In July of 2000, he opened his own lawn service business and owned equipment that he stored at his house. Anderson stated that he never provided verification of his business because he was never asked for it. Anderson testified that he completed the substance evaluation as required, as well as the psychological evaluation. He started an escort service with seven Michigan State University women as employees. Anderson testified that he had attended parenting classes and counseling during his incarceration. He testified that he loved AAA very much and wanted to be a father figure to him. Respondent stated that he had never committed a crime in front of AAA.

According to Anderson, he had been previously convicted of pandering, possession of marijuana, and possession of a controlled substance as well as joy riding, disorderly conduct, writing a nonsufficient funds check, and domestic violence. Anderson testified that he had no other criminal matters pending. However, on cross-examination, he admitted that he was currently charged with four counts of transporting a female for prostitution and three counts of pandering and accepting the earnings of a prostitute. Anderson stated that he had been incarcerated since January of 2002 and the earliest he could be released was June of 2004, although there was a possibility that he could be released earlier on a tether. Anderson said that he planned to live with his stepmother upon release. He further stated that AAA had lived with him for only three-and-a-half months when he was first born. Although Anderson had received money from jobs and family in prison, he never sent any to AAA.

At the close of arguments, the trial court found that there was clear and convincing evidence to terminate Anderson's rights under the statute and that termination was in the best interests of AAA. Anderson appeals of right.

II. Standard Of Review

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination has been met by clear and convincing evidence.¹ This Court reviews the trial court's findings of fact for clear error.² A finding is clearly erroneous when the reviewing court is left with the firm and definite conviction that a mistake was made.³ Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court shall order the termination of parental rights unless it finds from evidence on the

¹ *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993).

² MCR 5.974(I); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

³ *Jackson, supra* at 25.

whole record that termination is clearly not in the child's best interests.⁴ The trial court's decision regarding the child's best interests is reviewed for clear error.⁵

III. The Trial Court's Decision

We conclude that the circuit court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence.⁶ During the time AAA was in foster care, Anderson did not consistently attend visits, did not attend counseling, and tested positive for marijuana. Further, at the time of the termination trial, Anderson was serving a three-year sentence and faced numerous other criminal charges. Thus, the circuit court did not err in terminating Anderson's parental rights to the child.

Affirmed.

/s/ William C. Whitbeck
/s/ Helene N. White
/s/ Pat M. Donofrio

⁴ MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000).

⁵ *Trejo*, *supra* at 356-357.

⁶ MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).